

SECOND REGULAR SESSION

SENATE BILL NO. 971

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOLL

Pre-filed December 23, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2500S.01I

AN ACT

To repeal sections 570.135 and 570.223, RSMo, and to enact in lieu thereof two new sections relating to crimes concerning the fraudulent use of identity, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 570.135 and 570.223, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 570.135 and 570.223, to read as follows:

570.135. 1. No person shall knowingly make or cause to be made, directly or indirectly, a false statement regarding another person for the purpose of fraudulently procuring the issuance of a credit card or debit card.

2. No person shall willfully obtain personal identifying information of another person without the authorization of that person and use that information fraudulently to obtain, or attempt to obtain, credit, goods or services in the name of the other person without the consent of that person.

3. Any person who violates the provisions of subsection 1 or 2 of this section is guilty of a class ~~[A misdemeanor]~~ **D felony**.

4. As used in this section, "personal identifying information" means the name, address, telephone number, driver's license number, Social Security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number or credit card number of a person.

5. Notwithstanding subsections 1 to 4 of this section, no corporation,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

proprietorship, partnership, limited liability company, limited liability partnership or other business entity shall be liable under this section for accepting applications for credit cards or debit cards or for the credit cards or debit cards in any credit or debit transaction, absent clear and convincing evidence that such business entity conspired with or was a part of the fraudulent procuring of the issuance of a credit card or debit card.

570.223. 1. A person commits the crime of identity theft if he knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his use.

2. [Identity theft is punishable by up to six months in jail for the first offense; up to one year in jail for the second offense; and one to five years imprisonment for the third or subsequent offense.] **Any person charged with identification theft shall be prosecuted:**

- (1) In the county in which the offense is committed; or
- (2) If the offense is committed partly in one county and partly in another, or if the elements of the offense occur in more than one county, then in any of the counties where any element of the offense occurred; or
- (3) In the county in which the defendant resides; or
- (4) In the county in which the victim resides; or
- (5) In the county in which the property obtained or attempted to be obtained was located.

3. **Any person who violates the provisions of this section is guilty of a class D felony.**

4. In addition to the provisions of subsection 2 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

- (1) In clearing the credit history or credit rating of the victim; and
- (2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.